

**REMARKS UNDER 37 CFR § 1.111**

**Formal Matters**

Claims 1-16, 19-23 and 26-27 are pending after entry of the above amendments.

Claims 1-3, 5-8 and 14-16 were examined. Claims 1-3, 5-8 and 14-16 were rejected.

Applicants respectfully request reconsideration of the application in view of the above amendments and the remarks made herein.

No new matter has been added.

**The Office Action**

**The Restriction Requirement**

In the Official Action of January 22, 2009, the Examiner acknowledged Applicants' election of Species 15, Fig. 33, without traverse.

However, the Examiner did not respond to Applicants' assertion that claims 9, 15 and 19 also read on the elected species 15, Fig. 33. Applicants maintain this position and request the Examiner to reinstate claims 9, 15 and 19 as reading on the elected Species 15, or, in the alternative, to articulate, in the next Official Action, why the Examiner does not agree with Applicants' position regarding claims 9, 15 and 19. Applicants respectfully submit that withdrawal of claims 9, 15 and 19 was improper and therefore Applicants request that the Examiner reinstate claims 9, 15 and 19.

**Claims Rejected Under 35 U.S.C. Sections 102/103 - Jensen**

Claims 1-3, 5-8 and 14-16 were rejected under 35 U.S.C. Section 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. Section 103(a) as being obvious over Jensen, U.S. Patent No. 3,572,326.

Regarding claim 1, the Examiner asserted that Jensen discloses a frame member that includes elongate bar 33 and elements 18-20, 22-24 and 42. The Examiner asserted that Jensen discloses an actuator 34,35 for moving the foot 48 and 2<sup>nd</sup> arm/blade 47 vertically with respect to the 1<sup>st</sup> blade 49.

Applicants respectfully traverse. It is respectfully submitted that components 34, 35 are clamps, not actuators, e.g., see column 3, lines 54-55. Applicants have amended claim 1 above to further clarify that the actuator interconnects the foot and one of the first and second retractor blades. It is respectfully submitted that the clamps 34,35 of Jensen et al. merely clamp the rod 33 to the curved members 22 and 18 and do not interconnect a foot and a retractor blade.

With regard to claim 2, the Examiner asserted that retractor 49 and retractor 47 are coupled to elongated bar 33. Applicants respectfully submit that this is clearly not the case, as Fig. 1 shows that retractor 47 is coupled to bar 33, but retractor 49 is coupled to bar 42.

As to claim 3, it is respectfully submitted that pusher 48 is not coupled to retractor 47, contrary to the Examiner's implication. Rather, Fig. 1 shows that pusher 48 is clamped to bar 33 and that retractor 47 is clamped to bar 33.

Regarding claim 5, it is respectfully submitted that Jensen does not disclose a coupling that permits rotation of a foot with respect to at least one of the frame and first and second blades in one direction, while preventing rotation in the opposite direction as claimed. The Examiner asserted that "coupling" 56 allows or locks relative rotation between foot 48 and frame element 33. Applicants respectfully submit that reference numeral 56 of Jensen indicates a clamp 56, see column 5, lines 55-71. Accordingly, the clamp can be loosened to allow rotation of the pusher 48 in both rotational directions, or clamped down to prevent rotation of the pusher 48 in both directions. It cannot, however, be configured to allow rotation in one direction, while preventing rotation in the opposite direction, as claimed.

Regarding claim 8, the Examiner asserted that first blade /arm 49 is coupled to frame element 42 and that opposed blade/arm 47 is coupled to frame element 33. However, 33 and 42 are two different bars. Claim 8 recites that both the first and second bars are mounted to an elongate bar. Accordingly,, since Jensen does not mount both retractors 47 and 33 to a single bar, Jensen fails to anticipate claim 8.

Regarding claims 1-3, the Examiner relied upon Forder, Figs. 5-6 as teaching that it would have been obvious to provide blades with vane/extending tip section. Aside from the point that Applicants do not agree with the Examiner's assessment, it is respectfully submitted that Forder was not properly introduced as a teaching reference in this ground of rejection, since the ground of rejection was purportedly a 102/103 rejection over Jensen alone. Accordingly, if the Examiner intends to maintain this argument, Applicants respectfully submit that the statement of the grounds of rejection be corrected to clarify that the rejection is based on Jensen in view of Forder. Alternatively, this assertion should be withdrawn as being improper.

Regarding claim 14, it is respectfully submitted that the retractor 47 (identified by the Examiner as the "second blade") does not rotate relative to rod 33 as the rod translates the retractor 47 away from the retractor 49. Rather, the retractor 47 is rigidly fixed to the rod, which allows the retractor 47 to rotate with the rod, not relative to it.

Regarding claim 16, it is respectfully submitted that the pusher 48 is not coupled to the retractor 47, for reasons noted above.

Accordingly, in view of the above remarks and the submission of the terminal disclaimer, the Examiner is respectfully requested to reconsider and withdraw the rejection of claims 1-3, 5-8 and 14-16 under 35 U.S.C. Section 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. Section 13(a) as being obvious over Jensen, U.S. Patent No. 3,572,326, as being inappropriate.

#### **New Claim 27**

New claim 27 has been submitted, which depends from claim 5. Support for this claim can be found, for example at Fig. 33, page 45, lines 11-19 of the specification, and throughout the specification. The Examiner is respectfully requested to indicate the allowance of claim 27 in the next Official Action.

#### **Conclusion**

Applicants submit that all of the claims are in condition for allowance, which action is requested. If the Examiner finds that a telephone conference would expedite the prosecution of this application, please telephone the undersigned at the number provided.

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The Commissioner is hereby authorized to charge any underpayment of fees associated with this communication, including any necessary fees for extensions of time, or credit any overpayment to Deposit Account No. 50-2653, order number GUID-006CON5.

Respectfully submitted,  
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